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FILE NO.: 06238.2598

December 16, 2016

**By ECF**

The Hon. Analisa Torres  
United State District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: *Krystyna v. Bronx-Lebanon Hospital Center, et al.*  
Docket No. 1:16-cv-05100-AT

Dear Judge Torres:

We write on behalf of all Defendants in the above matter. As Plaintiff's counsel states, the mediation was unsuccessful. Defendants likewise request an initial conference to move forward with discovery.

Although Plaintiff seems to insinuate that certain individuals should have attended or participated in the mediation, Plaintiff fails to advise the Court that their absence was specifically discussed with, and deemed acceptable by, the mediator. Moreover, Mr. Harman's colleague specifically asked that Dr. Jakubowicz not attend due to the emotional tensions that might have arisen with his client. In any event, the mediation was unsuccessful because of the parties' widely differing views of this case, and not because certain individuals were absent. Indeed, we stated during the mediation that the representatives who attended were fully authorized to settle the case, and the insurance carrier was on telephone standby.

With regard to Plaintiff's concern that our representation of all Defendants may raise a potential conflict with one particular defendant, Dr. Jakubowicz, we will be more than happy to discuss this further during the initial conference. From our prior investigation and discussions with the Hospital, we did not find any present conflict with Dr. Jakubowicz that might preclude our ability to afford Defendants with a joint defense. Nonetheless, we will look further into this issue to verify that such is the case.

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Thank you for your attention to this matter.

Respectfully submitted,

*/s/ Roy W. Breitenbach*

Roy W. Breitenbach

JH:jd

cc: Walker G. Harman, Jr. (via ECF)  
Jason Hsi, Esq. (via ECF)

**GARFUNKEL WILD, P.C.**